

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GENLYTE THOMAS GROUP LLC,
a Delaware Limited Liability Company
Plaintiff,

v.

ARCHITECTURAL LIGHTING SYSTEMS,
a division of ARCH LIGHTING GROUP, a
Rhode Island Corporation

Defendant.

Civil Action No. 05-CV-10945 WGY

**PLAINTIFF’S MOTION IN LIMINE TO EXCLUDE
TESTIMONY REGARDING INVALIDITY OF U.S. PATENT NO. 5,238,254**

Plaintiff, Genlyte Thomas Group LLC (“Genlyte”), by counsel, submits this Motion in Limine to exclude at the trial of this cause, any and all testimony regarding or relating to invalidity of the patent-in-suit, U.S. Patent No. 5,238,254 (“the ‘254 Patent”).

As grounds for this motion, Genlyte states that the Joint Pretrial Memorandum [D.E. 42] in this case does not include any defense or ground of invalidity of the ‘254 Patent. This was confirmed in chambers. Nevertheless, when Genlyte deposed Defendant’s proffered expert Dr. Ian Lewin (“Lewin”), Lewin attempted to insert invalidity as part of his answers to deposing counsel’s questions (Lewin Depo. p. 50, Lines 5-16; p. 52, Line 18- p. 53, Line 8). Ultimately, however, Lewin conceded that he was only offering (if permitted¹) opinion testimony on the issue of infringement of the ‘254 Patent (Lewin Depo. p. 54, Line 24 – p. 55, Line 2; p. 59, Line 17 – p. 60, Line 3).

By this motion, Genlyte seeks confirmation by Order of the Court that no testimony may be proffered, adduced or accepted on the issue of invalidity of the ‘254 Patent under the ground of 35 U.S.C. §§ 102, 103 or 112.

Respectfully submitted,

/s/ Kevin Gannon

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*Counsel for Plaintiff, Genlyte Thomas
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Certificate of Service

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on this 19th day of January, 2007.

/s/ Kevin Gannon

Counsel for Plaintiff, Genlyte Thomas Group LLC

¹ Genlyte has filed a motion to exclude Lewin's testimony and report based on his deposition testimony.

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Order Granting
**PLAINTIFF'S MOTION IN LIMINE TO EXCLUDE
TESTIMONY REGARDING INVALIDITY OF U.S. PATENT NO. 5,238,254**

On motion of Plaintiff, Genlyte Thomas Group LLC ("Genlyte") to exclude at the trial of this cause, any and all testimony regarding or relating to invalidity of the patent-in-suit, U.S. Patent No. 5,238,254 ("the '254 Patent"), and the Court having considered said motion and any response thereto, and after reviewing the Record in this case, and being sufficiently advised,

IT IS ORDERED that Plaintiff's motion is granted. IT IS FURTHER ORDERED that no testimony may be proffered, adduced or accepted on the issue of invalidity of the '254 Patent under any ground of 35 U.S.C. §§ 102, 103 or 112.

SO ORDERED THIS ____ DAY OF JANUARY, 2007.

U.S. District Judge

TENDERED BY:

/s/ Kevin Gannon

James E. Milliman (Pro hac vice)

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